



**Town of Boylston** Conservation Commission [conservation@boylston-ma.gov](mailto:conservation@boylston-ma.gov)  
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## **REGULAR MEETING MINUTES**

### **NOVEMBER 16, 2020**

Members via Remote: Joe McGrath, Chip Burkhardt, Dan Duffy, Mark Coakley, Jeffrey Walsh

Members Absent: None

Others Participating Remotely: Nicole Hayes (Goddard Consulting); Paul McManus (EcoTec); Patrick Healy (Thompson-Liston); Mark Anttila (46 Compass Circle); Farooq Ansari; Wayne Belec; Matt Watsky; Matt Marro; Steven Van Dessel and MaryAnn Dipinto; Jimmy Ricciardi

Recorder: Melanie Rich

Joe McGrath, Chairman of the Conservation Commission, opened the virtual meeting at 7:00 p.m. and announced it is being held via video conference. He informed everyone that they can email him at ([jmcgrath@boylston-ma.gov](mailto:jmcgrath@boylston-ma.gov)) with any questions which will be answered during the meeting; they can dial in as well.

Commissioner Roll Call: Chip Burkhardt, Mark Coakley, Dan Duffy, Jeff Walsh, Joe McGrath

**PUBLIC HEARING (continued) – 260 Shrewsbury Street (Dragon 88) – Notice of Intent Application** to divert stormwater runoff from the fill slopes as well as stabilizing non-vegetated or sparsely vegetated slopes due to the former placement of unauthorized fill which impacted and created Bordering Vegetated Wetlands (DEP#115-427)

Scott Heim (Northeast Ecological Services) requested a continuance to the December meeting. Mark Coakley made a motion to accept the request for continuance to 7:05 p.m. on December 21<sup>st</sup>, Jeff Walsh seconded; roll call vote: Burkhardt-aye; Coakley-aye; Duffy-aye; Walsh-aye; McGrath-aye; motion approved.

**PUBLIC HEARING (continued) – 100 Shrewsbury Street (Steve Venincasa/Casa Builders & Developers) – Abbreviated Notice of Resource Area Delineation Application** for confirmation of all wetland resource areas on the parcel located at 100 Shrewsbury Street (DEP#115-428)

Nicole Hayes (Goddard Consulting) joined the meeting. At the last meeting, the Commission wanted additional information regarding the intermittent status from Rand Whitney, LEI, and Worcester Pistol and Rifle Club sites. Ms. Hayes said no riverfront area was identified in the Rand Whitney DEP #115-327 filing in 2008. In 2007, an ENF was filed for drainage improvements and wetland resource areas with a proposed crossing for Sewall Street; no riverfront area was identified on the plan; an Order of Conditions was issued 6/27/2007. DEP determined the area to be intermittent in a letter dated 6/28/2007. ANRAD filing DEP #115-415 asked the Commission to determine whether a certain isolated wetland area was jurisdictional; it did not reference the riverfront area with Sewall Brook. LEI filing DEP #115-378, did not indicate any riverfront area located on the site. There was no riverfront area impact identified in the 2016 Worcester Pistol and Rifle Club filing DEP #115-382. She said the status for the three sites on whether the stream up and downgradient of the site were intermittent or perennial are

shown as intermittent. They have also looked at 3-5 other sites upgradient and downgradient of the site that the stream was intermittent. They cannot document this year because of drought conditions; they must use past documentation. They are asking that the Commission deem the stream on the site as intermittent an issue an ORAD.

Paul McManus (EcoTec) was not sure if the minor revisions with the BVWs were on the plan yet. There are other resource areas as well, BLSF which is a small area. The FEMA map does have a profile of the brook and believes they applied the profile correctly. They also delineated the ILSF and he felt it was a reasonable delineation. He noted that there are different ways to delineate the boundary of ILSF: (1) based on calculations, and (2) the regulations highest observed or reported flooding. Ms. Hayes delineated based on wetland characteristics; it is an isolated wetland. Mr. McManus commented that the LEI 200 Shrewsbury Street property upper portion had riverfront; the lower portion was found to be intermittent.

Patrick Healy (Thompson-Liston) provided a memo dated November 11, 2020 regarding Sewall Brook File Research. Dan Duffy noted that DEP commented that there were not any observations included in the submittal. According to the Wetland Protect Act, what is required to re-classify a stream that is shown as perennial on the USGS as intermittent is not specific, it does not have to be done on the property. He read in part from the MACC Handbook and was concerned whether we could take evidence upstream and downstream of the site to make a determination of the stream on the site itself. He wants to make sure we are making the right decision moving forward. The regulations and handbook also discuss withdrawals in areas that may be influenced by wells. If the streambeds would be influenced by withdrawals, it is still determined to be perennial. Mark Coakley added that he believed the parcel is in the zone of influence for one of the wells. Ms. Haynes commented on the last two paragraphs from the DEP letter. They do not have photos because of drought conditions; photographic evidence is not considered proof in a drought condition. She further said they have demonstrated in past filings that both upstream and downstream of the river reach on site has been deemed intermittent. If it is intermittent above and below the onsite stream channel, the stream on site would also be intermittent. Mr. Healy agreed and said there are no impoundments upstream that they are aware of, including Sewall Brook. The site is within the defined Zone 2 to the public water supply. Mr. Duffy asked if he could provide information from the Water District that it is not impacted by drawdowns. The only information Mr. Healy could provide at this time was that they have been in contact with the Water District about supplying water for this property. They requested that some upgrades be made to the town well because the delivery equipment cannot pump enough volume to the well to supply the additional demand. Jeff Walsh shared his research and felt the best information would come from the Rand Whitney site. Mr. Duffy questioned contacting DEP for advice. He is hesitant to call it intermittent and would like some guidance from DEP to help make sure we are making the right decision. Mr. Burkhardt had the same concerns and said there is specific information in the DEP letter that they have not met. Mr. McManus said the regulations require photographic evidence. They are only specific to the drought issue. There is other photographic evidence from other sites, but is it sufficient to render an opinion for this site? He suggested as an option that the applicant could remove the question of perennial stream riverfront from the ANRAD. Mr. Healy agreed that was a reasonable suggestion; they could also wait until the drought conditions are over.

Mr. McGrath asked for public comment; there was none. Mr. McGrath asked Ms. Hayes to allow the Commission to obtain additional feedback from the DEP, or for them to revise the ANRAD to omit the stream area. Ms. Hayes said the Commission should contact DEP about the data and facts submitted and requested a continuance. Mark Coakley made a motion to accept the request for continuance to

December 21<sup>st</sup> at 7:10 p.m.; Chip Burkhardt seconded; roll call vote: Burkhardt-aye; Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved. Mr. Duffy will follow-up with the DEP.

**PUBLIC MEETING – 100 School Street (Roland & Janice Lizotte) – Request for Determination of Applicability Application** to remove a full exotic invasive plant including the roots

Glenn Krevosky requested a continuance. Mark Coakley made a motion to accept the request for continuance to December 21<sup>st</sup> at 7:15 p.m.; Jeff Walsh seconded; roll call vote: Burkhardt-aye; Duffy-aye; Walsh-aye; Coakley-aye; McGrath-aye; motion approved.

**COMMISSION BUSINESS**

Electronic Signatures – It was found out today that for electronic signatures to be recordable at the Registry of Deeds, the document must have written reference noting the intent to electronically sign and the act of the signatory described in accordance with MGL c.110G Section 9 on the document, above the signature box. Joe McGrath made a motion to approve the use of electronic signatures for documents that are accepted in accordance with Massachusetts legislation for signature including documents for DEP as well as town documents related to Town Bylaws; Chip Burkhardt seconded. The motion was revised to include the list from the Worcester Registry of Deeds website <https://massrods.com/worcester/electronic-signatures>; roll call vote: Burkhardt-aye; Coakley-aye; Duffy-aye; Walsh-aye; McGrath-aye; motion approved.

Compass Pointe Update – Jeff Walsh recused himself from the matter. On November 7<sup>th</sup>, Joe McGrath, Mark Coakley, and Dan Duffy did a site walk. Mr. Duffy submitted the notes taken with the observations made during the site walk, shared them onscreen and discussed each of them. Overall things look promising, but there is definitely more work needed where the seed didn't take and other areas that he mentioned earlier. Mr. McGrath also noted that some of the banks along the roadway above the extension roadway had erosion on the slopes and some of the wood chips have eroded away. Mr. Coakley asked if there were any action items we want done before winter. Mr. Duffy said at this point he didn't think anything would make the situation better.

Attorney Watsky asked if the Commission would share the list with them to use as a guide. Mr. Duffy had no issues but did comment that we have not received any reports from Matt Marro as promised; Mr. Marro once again said he would get them to us. Mr. McGrath told Mr. Marro there was an area that had a blowout at the top of the slope during the installation of chain link fence; there was no vegetation on it; cover is needed so it does not wash out during the winter. Mr. Coakley said the gutter leaders that are discharging onto the slopes need to be addressed; they are scouring the slopes. The Commission wants to see those areas addressed before the winter sets in and spring runoff. Attorney Watsky asked what size stone is acceptable in that area and was told that it's up to their engineer to determine that. Mr. Burkhardt asked about the information on the engineered product that was placed on the slopes. Was the material approved for use on those slopes? The approval called for loam, but they put an engineered product on the slopes. The extra nutrients will help growth, but is it safe to put so close to the wetlands, and will it support growth in the long term? Mr. McGrath asked Mr. Marro to provide us with his opinion. Paul McManus (EcoTec) will be asked to provide his opinion for the next meeting.

Mark Anttila said loam has not been put on the hills. Mr. Duffy said the Commission was misled. At the last meeting, the applicant was not sure how much topsoil was going to be put down, which was clearly not the intent, because the next day they spread a product that the Commission had no information on. Mr. Anttila asked about the fence installation. Mr. McGrath said in his opinion, due to the nature of the

slopes, would be to have a full extent fence at the top of slope as a safety feature. Lot 9C and lot 9D had the blowout. Mr. Anttila said there are trees growing in the basin near 46A & 46B. Mr. McGrath told the applicant that the tree growth, including the root structure, on the overflow berms of the stormwater basin must be removed. Onni Wartinen said the slope on Lot 5A is more gradual; the slope is much more severe on Lot 5B; they have never received any loam.

Attorney Watsky said they will go back on site and address the questions, review them with Paul McManus, and report at the next meeting. Mr. McGrath pointed out that they changed the stabilization material without notifying the Commission; it was another indication that they are “marching to their own beat” and would appreciate more cooperation. Along with Mr. Marro’s update, the Commission would like more detail as to what the actual plans are to complete the stabilization. There is still a great deal of work to be done; it is not going to be a short-term situation; it will take several more growing years to stabilize.

Compass Pointe Bond Status – Jim Haynes is requesting the release of the Reduced Letters of Credit #3042 (\$51,597.00) and #3078 (\$16,200.00) – Jeff Walsh recused himself from the matter. Mr. McGrath’s said it is his opinion that the Commission has asked several times for the applicant to provide an estimate by an engineer that can be looked at by our engineer that the bond is sufficient to cover the remaining work on the property and have not received it; his opinion is that we should not release the two letters of credit until we receive a plan and can confirm that the existing bond in place is sufficient. Mr. Burkhardt said we are still waiting for additional information from the applicant to make an informed decision.

Attorney Watsky said they are having survey work done on the toe of slope coming closer to a particular wetland than had been shown on the plan. The initial data has been done but the plans are not ready to be stamped yet. He said they did not say they would be providing plans on the rest of the site; they will provide an as-built plan when they apply for a Certificate of Compliance. Mr. Coakley wanted to clarify that we will not be getting any information for the configuration of the slopes where we think it is greater than what we approved on the plan. Mr. McGrath understands we will not get that until Mr. Haynes applies for a Certificate of Compliance. Mr. Duffy said as a member, he hopes he is advising his client that if the slopes are not built to design, his opinion is he will not approve a Certificate of Compliance.

1240 Main Street Complaint – Steven Van Dessel and MaryAnn Dipinto participated. A site inspection report and plan were provided. Trees were cut approximately a year ago; most of the stumps were left except where the driveway is proposed; the soil pile was moved; a house is proposed on the top of the hill. Ms. Dipinto visited the site twice to verify if there were jurisdictional wetlands on the property. There is an intermittent stream upgradient of any resource area; a catch basin was installed by the previous owner; there is fill near an isolated wetland. There has been no work on the site other than tree clearing and moving the soil pile. The concerns of the Commission were that there might be a small wetland area to the left of the entry gate, and there should be a filing for a Stormwater Permit because more than one acre has been disturbed. The Commission will want to see erosion and sediment control details on the plans as part of the filing. Mr. Van Dessel was told to have his engineer do an assessment to see if it exceeds the threshold (or not) and advise the Commission of his findings.

Kim Ames Donation of Land – Tabled to December.

8 Boulder Way Update – Mr. McGrath researched the file and found that the brook channel is not on 8 Boulder Way. There were no existing maintenance conditions for the brook or stream channel. A small

piece is on Lot 10. It is in a right-of-way (existing Lot 9). It has moved over the years so the open end onto the pond over the stream channel is partially in Lot 9 and Lot 10. There is no deeded owner for Lot 9; it is unclaimed land. We do not want machinery in the brook, but remedial work is needed to clean the stream channel occasionally and do regular maintenance. Jeff Walsh felt a valid Order of Conditions is needed (with perpetual conditions) if someone wants to clean it out from time to time. There is no way to get a machine in the right-of-way; the clearing work at the end of the channel should be done manually as required and no machinery is to go into the pond. If no one owns Lot 9 in the right-of-way, who should file it? A registered letter will be sent to abutting homeowners (Ken Sydow and the Damuni's) that if they want to do future maintenance, someone needs to file with the Commission. In the meantime, no equipment is to be used. Mr. McGrath will draft a letter.

Consider issuing Certificates of Compliance for Pine Street Boylston Realty: DEP#115-405 (Lot 1 Pine Street); 115-406 (Lot 2 Pine Street); 115-407 (Lot 3 Pine Street); DEP#115-408 (320 Sewall Street Pine Street Extension); SCP-2017-1 (320 Sewall Street Pine Street Extension) – Jeff Walsh visited the site and was satisfied with the stabilization. Mr. Duffy said the lot closest to Sewall Street had some flood area replication and not sure if we received the required documents for the compensatory flood storage capacity and vegetation schedule requirements. There was not enough sufficient information to act on. The Commission agreed to have Paul McManus do a site visit and verify the compensatory flood zone area after it is received from the applicant. Mr. Ricciardi said he is the process of getting the site as-built and does have more work to do regarding the compensatory storage. When the completed information is received in the office, Mr. McManus will be asked to do his inspection.

Consider issuing a Certificate of Compliance for Longley Hill (DEP#115-342) and Stormwater Control Permit SCP#2009-2 – There is not enough sufficient information for the Commission to act on. They want to review the O&M Plan and want to see a site plan to show the houses and driveways. Lot 11 is not resolved; it was included in the original Order and needs to be stabilized. Mr. Ansari said the subdivision is being maintained by the Homeowners Association and all the basins are in good shape; everything is very well maintained.

Stiles Road Project (Farooq Ansari) – Joe McGrath attended an Applicant Advisory meeting on October 27<sup>th</sup> along with other town boards, Mr. Ansari and Wayne Belec (Engineer). The proposed project would include work in the lower Stiles Road area. Mr. Belec said they met with the Planning Board on September 16<sup>th</sup> after the site was delineated by Scott Heim; there are some wetlands in the road. There is approximately 6,000 feet of road; possible access coming up from Longley Hill Road was discussed; the impact to the resource area would be approximately 5,000 square feet with another 1,200 square feet of alteration closer to the site. Mr. Ansari thought Stiles Road was a public way. The town said it was an unimproved way; if they were to act on a subdivision plan, they would be acting on a plan to create a cul-de-sac bulb and the associated lots. Any improvements within the public way are the jurisdiction of the DPW and BOS in terms of ownership. The road was accepted in 1913 and made a public way from Cross Street to Reservoir Street; any work to be done would be on town land.

The Planning Board had a concern with the dead-end length coming in from Longley Hill. There was talk about creating a through street extending Stiles Road. The BOS made it clear that the town is not in a financial position to make improvements on that section of the roadway. Mr. Belec suggested coming in from Stiles Road from the north and create an emergency vehicle access drive down Longley Hill along Stiles Road to minimize the impacts to the resource areas. The consultant delineated the stream on the property and did not identify a perennial stream.

Mr. McGrath commented that in addition to Steve Mero, there was also a request from Chief Flannagan and Light Department to complete the connection between Longley Hill and Stiles Road. The stream shown on MassGIS is a tributary of Cold Harbor Brook that goes up Stiles Road and eventually goes into Straw Hollow. They could be faced with not only flagged wetland areas but riverfront area as well if they came up from Longley Hill to Stiles Road. Mr. Belec will submit an ANRAD for confirmation. Mr. Duffy commented that if it is the same stream that discharges into Straw Hollow, there was significant work done on 2-3 lots on Stiles Road that were permitted in the late 90s early 2000s regarding perennial vs. intermittent and it was deemed to be perennial at the lower elevations. They will also be required to file for a Stormwater Permit. Mr. Belec believes there will be two filings: one for work within the town owned property on Stiles Road where the town would be the owner and Mr. Ansari the applicant, and the other would be specific to the subdivision and Mr. Ansari would be owner and applicant. Mr. Duffy commented about there being one wetland disturbance identified for the town and a second for the private development; it is one project; it would be problem segmenting it to get it under the 5,000 total square foot threshold. Mr. McGrath said the Commission looks forward to receiving the ANRAD and noted that an email was received from Steve Chwiecko and Anna Scott, 179 Stiles Road, with their comments about the project.

Correspondence and emails were reviewed.

Review & Approve Meeting Minutes dated October 19, 2020 – Joe McGrath made a motion to approve the October 19, 2020 meeting minutes as amended; Mark Coakley seconded; roll call vote: Burkhardt-aye; Coakley-aye; Duffy-aye; Walsh-aye; McGrath-aye; motion approved. December 21<sup>st</sup> was confirmed as the next meeting date.

Action Items: Dan Duffy to contact DEP to comment on perennial vs. intermittent stream regarding 100 Shrewsbury Street; continue work on Kim Ames land donation; draft letter for Boulder Way; check for O&M Plan and review specifics related to Longley Hill Certificate of Compliance request.

Having no further business to discuss, Mark Coakley made a motion to adjourn; Jeff Walsh seconded; roll call vote: Burkhardt-aye; Coakley-aye; Duffy-aye; Walsh-aye; McGrath-aye; motion approved.

The meeting adjourned at 10:12 p.m.